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Volkswagen Group of America Finance, LLC

12
13 [Additional counsel on signature page]

14
15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA

17
18 IN RE: VOLKSWAGEN “CLEAN DIESEL”
19 MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION

20 This Document Relates to:

21 *BRS v. Volkswagen AG, et al.*, Case No. 16-cv-
3435 (“Bondholders Securities Action”)

)
MDL No. 2672 CRB (JSC)
)
) DEFENDANTS VOLKSWAGEN AG,
) VOLKSWAGEN GROUP OF AMERICA, INC.,
) VOLKSWAGEN GROUP OF AMERICA
) FINANCE, LLC, MICHAEL HORN, AND
) MARTIN WINTERKORN’S MOTION TO
) FILE UNDER SEAL
)
Courtroom: 6
The Honorable Charles R. Breyer
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)
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)
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1 Pursuant to Local Civil Rules 7-11 and 79-5, and the Stipulated Protective Order (ECF
 2 No. 5903), Defendants Volkswagen AG, Volkswagen Group of America, Inc., Volkswagen Group of
 3 America Finance, LLC, Michael Horn, and Martin Winterkorn (collectively, “Defendants”) respectfully
 4 request to file portions of their Memorandum of Law in Opposition of Law in Opposition to Plaintiff’s
 5 Motion for Class Certification (the “Opposition”), portions of Exhibit A and Exhibit B to the
 6 Declaration of Suhana S. Han in Support of Defendants Volkswagen AG, Volkswagen Group of
 7 America, Inc., Volkswagen Group of America Finance, LLC, Michael Horn and Martin Winterkorn’s
 8 Memorandum of Law in Opposition to Plaintiff’s Motion for Class Certification and in Support of
 9 Defendants’ Motion to Exclude the Testimony of Dr. Michael Hartzmark (“Han Declaration”) under
 10 seal.

11 On February 19, 2019, the Court granted the parties’ Stipulated Protective Order.
 12 Pursuant to the Stipulated Protective Order, “a Party may not file in the public record in this Action any
 13 Protected Material” and “[a] Party that seeks to file under seal any Protected Material must comply with
 14 Civil Local Rule 79-5.” Exhibit B to the Han Declaration, a copy of the transcript of the deposition of
 15 Michael L. Hartzmark, Ph.D., dated January 10, 2020, was designated “Confidential” by counsel for
 16 Plaintiff pending further review by Dr. Hartzmark, and therefore constitutes “Protected Material.”

17 As required by Civil Local Rule 79-5(e), the accompanying Declaration of Suhana S.
 18 Han in support of Administrative Motion to File Under Seal identifies “the document or portions thereof
 19 which contain the designated confidential material and identify the party that has designated the material
 20 as confidential” and is being served on Plaintiff concurrently with the Opposition and this Motion to
 21 Seal.

22 Accordingly, Defendants respectfully request that Exhibit B to the Han Declaration, as
 23 well as the portions of the Opposition and Exhibit A to the Han Declaration that reference Exhibit B, be
 24 filed under seal and kept under seal until further order of the Court.

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1 Dated: February 14, 2020

Respectfully submitted,

2 /s/ Robert J. Giuffra, Jr.

3 Robert J. Giuffra, Jr. (*admitted pro hac
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39 *Attorneys for Defendant Martin
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ATTESTATION (CIVIL LOCAL RULE 5-1(i)(3))

In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from the signatory.

Dated: February 14, 2020

SULLIVAN & CROMWELL LLP

/s/ Laura Kabler Oswell
Laura Kabler Oswell